

For The middle district of pennsylvania

Keith S. Brown

FILED
HARRISBURG, PA

DEC 04 2023 Civil No. 1:23-cv- 1123

VS:

PER

DEPUTY CLERK

Col. Evans et al

Most Honorable Jennifer E. Wilson

Jury Trial Demanded

(Sued individual and official capacity)

Amended Complaint

1. This claim is being brought pursuant to 42 U.S.C. § 1983 for violation of plaintiff rights under the Eighth Amendment of the United States Constitution

2. This Court has jurisdiction over the federal claims pursuant to 28 U.S.C. §§ 1331 and 1343 and jurisdiction over the State Law claims pursuant to principles of pendant and ancillary jurisdiction

3. Venue is proper under 28 U.S.C. § 139 (b) because all of the Causes of action upon the Complaint is based and in Schuylkill County of Pennsylvania

4. This action is brought pursuant to Article I, Section 11 Article V, Section 5(b) of the Pennsylvania Constitution and Rule 1001(b)(1) of the Pennsylvania Rule of Civil procedure ("Pa. R. Civ.P") jurisdiction is based upon 42 Pa.C.S. A § 931 and the aforementioned Constitutional provision

plaintiff exhausted all avenue of the grievance 976654

5) pursuant to PA R. Civ P 1006, the venue of this Suit is proper as the claims arose in Schuylkill County Pennsylvania. The amount in controversy does exceed three hundred thousand dollars (\$300,000.00)

(parties)

6) plaintiff Keith S. Brown HS5040 was housed at Schuylkill County Prison 1111 Altemont Blvd PA 17931 at all times relevant hereto plaintiff is under the care, custody and control of the Pennsylvania Department of Corrections

7) Defendant officer Col. Evans works for the Pennsylvania Department of Corrections at Schuylkill County Prison 1111 Altemont Blvd Schuylkill PA 17931 ("DOC") is a Commonwealth agency with an office for service of process at the above address at all times relevant hereto D.O.C. was responsible for the custody, care and well being of the plaintiff Mr. Brown Sued individual and official capacity.

8) Defendant Dr. Peter Beddick is a physician who is employed by Wellpath Health Service Inc to work at the State Correctional Schuylkill County Prison 1111 Altemont Blvd Schuylkill PA 17931 being Sued in his individual and official capacity

9) Defendant PA Nicholas Boguslaw is a physician, Assistant who is employed by Wellpath Health Service Inc. to work at State Prison Schuylkill County Prison 1111 Altemont Blvd Schuylkill PA 17931 being Sued in her individual and official capacity

10.) Defendant Well-path Health Services, Inc., is a medical service provider that has contracted with the Pennsylvania Department of Corrections to provide medical care to inmates at SCI Grackville being sued in official and individual capacity.

11.) at all material times these defendants were acting under color of state law, pursuant to the customs, practices and policies of the Department of Corrections

(Facts)

12.) On or about April 12, 2022 plaintiff was being transported from Lehigh Valley Medical Center by Defendant officer Col. Evans who was the driver of the Department of Corrections vehicle while texting on his cell phone crash into the back of a double park BMW car on the highway

13.) while Defendant Evans was driving this vehicle he was going approximately around 30 or 40 MPH on St. Clair PA highway while texting on his cell phone which caused this accident acting reckless disregard to the plaintiff health and safety

14.) As of the result from this accident the plaintiff Keith Brown was injured suffer intense excruciating pain to his neck, shoulder and lower lumbar spine pain severe emotional distress, anxiety and fear from the impact of the crash I thought I was going to die.

- 15) the state police was contact to the Scene took photos of Both vehicle and Exchange information with Col. Evans and the owner of the BMW car
- 16) as a result of Defendant Evans Driving Down the highway and text on his phone at the Same time Behavior is Extreme and outrageous Conduct Causing me to have Emotional Distress, Nightmares, physical pain
- 17) The Decision by Defendant officer Col. Evans to Drive and text on his phone at the Same time was reckless disregard to the plaintiff health and safety and that his Conduct caused the plaintiff Mr. Brown Injury failed to protect
- 18) The Decision by Defendant Evans to Drive and text was done with deliberate Indifference to the plaintiff health and safety violation of the Eighth Amendment rights Deprive him one of the basic necessities of life
- 19) The Decision by Defendant Evans to Drive and text on his phone down the highway was done with knowledge of the excessive risk to the plaintiff health and safety and was done in disregard to the Substantial and excessive risk to the plaintiff health and safety
- 20) In denying the plaintiff safety while transporting him from the Hospital Officer Evans was deliberately Indifference to plaintiff's Basic human needs while incarcerated in Schuylkill County

21) When the Security Staff officers from SCT- Grackville at the Scene with a Camera photos were being taken of the Scene I was finally remove from the wreck Van and place into another Van Department of Correctional Vehicle.

22) While being Remove from the Van I reported again to Col. Evans my injuries also to the State Trooper when he was standing there.

23) The plaintiff was transport back to SCT- Grackville Medical Dept By Officers Col. Evans and several other officers Defendant Evans made the plaintiff wait out in the waiting room rather than take you straight back there like they usually do Officer Evans went into speak with Dr. Peter Baddick in concert and agreement to convince Dr. Baddick not to send me Mr. Brown out to the emergency room for the injuries he sustain which they intentionally and delaying the standard of treatment Mr. Brown needed and request.

24) These Defendants are aware of the D. O. C. policy which is if a inmate get hurt injury while outside the prison under there supervision do not bring him back into the institution until he check out by an Emergency Room hospital this is the standard of care.

25) The plaintiff Mr. Brown was brought into the medical triage room in front of nurse Amber Stahler who started the assessment which I reported my injuries then Dr. Baddick came in and nurse Amber ask him if he sending me out to the emergency room he stated no I request that I be send out

- 26) The Defendant Baddeck then Done A 5 minute Examination on my neck and shoulder
- 27) Defendant Dr. Baddeck AS A Result from The Crash and injuries Mr. Brown was prescribe prednisone and fentanyl
- 28) Despite his Knowledge of The Seriousness of Mr. Brown injuries Medical Condition Dr. peter Baddeck failed to provide The Care he Required adequate medical treatment and testing and send to emergency Room
- 29) From April 12, 2022 Mr. Brown Complaint to Defendant peter Baddeck
- 30) They order X ray which was inappropriate for Mr. Brown Condition after he had knowledge that I have a herniated disc
- 31) Dr. Baddeck failed to Secure proper treatment for Mr. Brown Condition, which was potentially Life Threaten.
- 32) Mr. Brown's Condition deteriorated to the point where he had to Sign Back up for Sick Call because The next day after The accident he Couldn't Stand up Straight when he try to get out of Bed
- 33) AS A Result of Dr. Baddeck failure to provide The requested Medical Care as needed to this Day Suffered intense pain damage to his neck and spine lower lumbar
- 34) prisen well-path Health Service has been providing Medical Care at SCT-frackville for awhile 2022

35) Defendant Peter Baddeck were employed by Well-path Health Service at all times relevant to this Complaint

36) The inadequacy of the care provided by Dr. Peter Baddeck as described above, was so likely to result in a violation of Mr. Brown's rights under the Eighth Amendment that the need for Well-path Health Service to act to prevent the violation was obvious.

37) In failing to act, Well-path Health Service and Dr. Baddeck was deliberately indifferent to Mr. Brown's serious medical needs

38) Defendant Well-path maintains a specific policy, custom, or practice of deliberate indifference to the plaintiff's serious medical needs which led to his harm

39) Defendant Well-path Corporation, with deliberate indifference to the consequences established and maintained a policy, practice or custom which directly caused Mr. Brown constitutional harm by depriving the standard of care treatment for his neck, back injuries and further testing and to be seen by a specialist to find out how much harm he sustain from the crash which violate Eighth amendment of the Constitution of United States

40) as described above these Defendants have intentionally refused to provide Medicare despite their knowledge that Mr. Brown needs further treatment and testing

41) on April 13, 2022 Mr. Brown Submitted A Sick call slip

Because the very next day after the crash Brown was experiencing pain in his neck and lower back couldn't stand straight up when he got out of bed also pain in the back of his head

42) April 15, 2022 Mr. Brown was seen on Sick call by Defendant Nichole Boguslaw for the injuries he sustained. She refused to send him to the emergency room after he explained to her the intense and excruciating pain he was experiencing in my back, neck, head. She informed me to stay on the pain medication that I was already on and that she would order X-ray. Mr. Brown requested that he be sent out to the hospital. She ignored him.

43) Mr. Brown explained to her that he had a herniated disc in his back also which from the impact exacerbated the pain that he was already suffering 10 times more. She intentionally ignored Mr. Brown's request for standard of medical care to be sent to the emergency room for further testing and treatment. Better medicine she ignored it.

44) Everytime Mr. Brown would sign up for Sick call about his injuries he sustained from April 12, 2022 and request to be sent out for further testing because of the pain that still existed. Dr. Baddick, Boguslaw and well-path intentionally reckless disregard my health and safety.

45) ASA Result from the crash and injuries Mr. Brown sustained he was instructed to stay on the medication Dr. Baddick prescribed and was already on ~~Celebrex~~ Celebrex

46) Despite her knowledge of the seriousness of Mr. Brown's injuries medical condition PA Boguslaw failed to provide the care he required

47) from April 15, 2022 Mr. Brown complaint to Defendant: Nichole Boguslaw

48) She order X-ray which was inappropriate for Mrs. Brown condition after she had knowledge that he had a herniated disc lower lumbar

49) PA Nichole Boguslaw failed to secure proper treatment for Mr. Brown condition, which was potentially life threatening.

49) Mr. Brown, condition deteriorated to the point where he had to sign back up for sick care because the next day after the crash he couldn't stand straight up when he got out of bed.

50) AS a result of Nichole Boguslaw failure to provide the requested medical care to Mr. Brown suffered intense pain and damages to his spine

51) Prison Well-path Health Service has been providing medical care at SCI-Franklin since 2020

52) Defendant Nichole Boguslaw were employed by Well-path Health Service at all time relevant to this complaint.

53) The Inadequacy of the care provided by PA Nicholas Boguslaw as describe above was so likely to result in a violation of Mr. Brown rights under the Eighth Amendment that the need for Well-path Service to act to prevent the violation was obvious.

54) In failing to act, well-path maintains a specific policy, custom, or practice of deliberate indifference to the plaintiff's serious medical need which led to harm

55) In failing to act, well-path Health Service and PA Boguslaw was deliberate indifference to Mr. Brown's serious medical needs

56) Defendants well-path Corporation, with deliberate indifference to the consequences established and maintain a policy, practice or custom which directly caused Mr. Brown constitutional harm by depriving the standard of care treatment for his neck, back injuries and further testing and to be seen by a specialist to find out how much harm he sustain from the crash which violate Eighth Amendment of the Constitution of United States

57) as described above these Defendants have intentionally refuse to provide Medicare despite their knowledge that Mr. Brown need further treatment and testing and to be send to the Emergency Room right after the crash when she knew it was injury

58) Furthermore Defendant Well-path Health Service Inc. Obligation to Select and retain only Competent physicians and/or staff when it knew or should have known that Defendants Boguslaw, Dr. Baddick and/or others employees, agents or servants of the Defendants, Well-path Health Service were not capable of adequately conducting a complete history, Background assessment of a patient as Mrs. Brown knowing he already had sustain a lower lumbar injury Before the crash AS Result these Defendants act with Deliberate Indifference to his Serious Medical Need

59) Given Brown's Condition the Defendants Well-path Inc., Dr. Baddick PA. Boguslaw also Col. Evans Collectively Conduct act or omission failing to Send him to the emergency room and/or refer him to the appropriate Specialist was Deliberate Indifference to his Serious medical need and from accepted Standards of Care under the Eighth Amendment of the United States

60) Defendants Officer Evans refusing to Send me to the emergency Room at the Scene of the Crash and/or Well-path Inc., Dr. Baddick PA Boguslaw deprive the plaintiff from the Standard of Care for his injuries and to Send him to the Emergency Room after he inform them his Neck, Back, Shoulder was injury was done intentionally and knowingly and with reckless and deliberate Indifference disregard for Mrs. Brown Health and Safety.

61) Defendants COL. Evans, Dr. Baddick, PA. Boguslaw, well-path inc By not Sending the plaintiff to emergency room where he could get adequately treated for his injuries he sustain and to know how much Damages Done to his Neck, Back was done with the ~~intention~~

Knowledge and understanding of the excessive risk to the plaintiff health and safety it was also done with the intent and for the purpose of punishing the plaintiff. Depriving plaintiff of a basic human need constitutes cruel and unusual punishment under the Eighth Amendment.

62) plaintiff repeatedly complained to the defendants that his neck, back, shoulder was injured and he need to go to the emergency room was ignored.

(Negligence for car crash)
Cause of Action 1

63) The action of defendant officer Evans in driving at a unsafe speed while texting on his cell phone attempt to make an unsafe stop and turn running into the back of a blue BMW car was done with wanton disregard to the plaintiff Mr. Brown safety and others the action of the defendant officer Col. Evans constituted the tort of negligence.

64) The actions of defendant officer Col. Evans operating the van while texting on his cell phone was done in wanton disregard for the safety of the plaintiff Mr. Brown the action of the defendant Evans constituted negligence.

65) the action / inaction the defendants Col. Evans and Dr. Peter Baddick, Boguslaw in failing to send the plaintiff to the emergency room right after he was in this crash and sustain injuries which Mr. Brown request was ignore and done in effort to conceal or otherwise cover-up

The action of Defendants officers Col. Evans recklessness also the Damage that Mr. Brown receive from crash was cover up By Defendants Bogustaw, Baddick, well-path Inc. Constitute the tort of A Civil Conspiracy.

66) The action of defendant Col. Evans while operate the vehicle while texting on his phone was done wanton disregard to the plaintiff Safety and well being defendant Col. Evans constitute a tort of negligence

67) The action of defendant Col. Evans reckless and Careless operation of the vehicle Exhibit A Wanton disregard to the plaintiff Safety and well being constitute the tort of failure to protect

68) The actions / Inaction of the defendants officers Evans, and Dr. Baddick, Bogustaw refusing to Send Mr. Brown to the Emergency Room. after being in a car crash was done unconscionable effort to deprive the plaintiff the Standard of Care, CT-Scan, and to be Seen by Specialist immediately decrease the value of his claim and case depriving the plaintiff Mr. Brown the rights to petition the Courts, Government, with Substantial Evidence for redressing the Damages The actions / Inaction of Defendants constitute the tort of obstruction with the administration of law or other Governmental function

69) The action / inaction of defendant Evans Peter Boddick, AND Boguslaw In refusing to Send the plaintiff to the Emergency Room after Car crash was done in a concerted effort to Conceal the Damages and Injuries that was done to the plaintiff and/or Cover-up the action of these defendants constitute the tort of civil Conspiracy

70) The actions / inaction of the defendant Each of them has caused Mr. Brown to Suffer Constant Intense pain to the Back of my head and neck and lower Back lumbar area. The actions of these defendants Col. Evans, Boddick, Boguslaw has further caused plaintiff Mr. Brown to Suffer undue fear, Shock, Emotional trauma, mental anxiety and paranoia

71) plaintiff Mr. Brown has and will continue to Suffer in the future from Stress, terror, Humiliation and physical pain as a further result of the Defendants actions / inaction. Plaintiff Mr. Brown Suffer from Constant nightmares, reoccurring vision of the fiery crash result of the plaintiff in need of Psychiatric Care and Medication.

(Relief Requested)

Wherefore plaintiff Mr. Brown Request that the Court Grant the following relief:

A. Issue declaratory judgment Stating that.

1) The Action of Evans, Boguslaw, Boddick well-path ino constitute negligence fail to protect and Ordinary Negligence on Medical treatment Order Injunction relief TRO / Motion Send the plaintiff to the Emergency Room for his Injuries

B. The action of Evans, Baddack, Boguslaw Constitute negligence, failure to protect and denied Standard of Care treatment

2) The actions / inactions of these Defendants Constitute Civil Conspiracy.

Award Compensatory Damages 300,000.00 \$

Award punitive Damages 300,000.00 \$

Award nominal Damages 1.00 \$

(Attorney Fee)

Grant any other relief as it may appear plaintiff is Entitled, or that the Court deems equitable and just

72)

Cause of Action 2nd 42 U.S.C. § 1983

Eighth Amendment Claim

Deliberate Indifference, Fail to protect Defendants Col. Evans.

Paragraphs 1 Through 91 are hereby Incorporated by reference as if more fully set forth Below.

73) Defendant Officer Col. Evans knowingly, intentionally, and with reckless and deliberate disregard for the plaintiff health and Safety was driving Down the highway and Crash into another vehicle Rear which was not moving while he was incarcerated at SCI - Frankville.

74) Defendant Col. Evans deliberately Indifference to the plaintiff Mr. Brown Safety Deprive Mr. Brown By failed to protect Constituted cruel and unusual punishment In Violation of the plaintiff rights under the Eighth and

fourteenth amendment of the United States Constitution of America.

75) Defendant Col. Evans deliberately decision to be driving and texting at the same time down St. Clear Rd highway was done with the knowledge and understanding of a substantial and excessive risk to the plaintiff health and safety and was done in disregard of that excessive risk to the plaintiff Mr. Brown health and safety

76) Defendant Col. Evans decision to deny Mr. Brown safety was done with the intent and for the purpose punishing by failed to protect violation of his rights under the Eighth and fourteenth amendment of the United States Constitution

77.) AS a direct and proximate result of the malicious intentional, deliberate and/or reckless actions of Defendant Col. Evans the plaintiff suffered injuries which are described above.

78) The above described actions of the Defendant Col. Evans in his individual capacity, was so malicious, intentional and reckless and displayed such a reckless indifference to the plaintiff rights and well-being that the imposition of punitive damages is warranted.

Wherefore pursuant to 42 U.S.C. § 1983 and § 1988, Plaintiff demands Compensatory and punitive damages against Defendant Col. Evans in his individual capacity in an amount in excess of three hundred thousand (300,000 - :00) Dollars plus interest, costs attorney fee and other appropriate relief.

Cause of Action 3rd 42 U.S.C. § 1983
 Eighth Amendment Claim Deliberate
 Indifference to Basic Human needs Defendant Col. Evans,
 Dr. Peter Baddick, PA. Nicholas Boguslaw, Well-Path Health Inc.

79) paragraphs 1 through 91 are hereby incorporated by reference as if more fully set forth below.

80) Defendants Col. Evans, Dr. Baddick, Boguslaw, Well-Path Inc knowingly, intentionally, and with reckless and deliberate disregard for the plaintiff's health and safety denied the plaintiff adequate medical treatment and testing and to be sent to the emergency room for injury he sustain in a car crash and to be seen by a specialist for months while he was at SCI - Frackville State Prison.

81) Defendants Col. Evans, Dr. Baddick, Boguslaw, Well-Path Inc. deliberate indifference to the plaintiff need for adequate medical treatment and testing and to be sent to the emergency room for injuries he sustain in a car crash and to be seen by a specialist approximately for months deprived the plaintiff.

of a Basic Human need and Constituted Cruel and unusual punishment in Violation of the plaintiff rights under the Eighth and fourteenth Amendment of the united States Constitution.

- 82) Defendants Col. Evans, Dr. Badduck, Boguslaw, well-path inc. deliberate decision to deny plaintiff adequate medical treatment and testing and to be send to the emergency Room for his injuries he sustain in a Car Crash and to be seen by A Specialist for months was done with the knowledge and understanding of the excessive risk to the plaintiff health and safety and was done in disregard of that excessive risk to the plaintiff health and safety.
- 83) Defendants Col. Evans, Dr. Badduck, Boguslaw, well-path inc. decision to deny the plaintiff's adequate medical treatment and testing and to be send to the emergency Room for his injuries he sustain in a Car Crash and to be seen by A Specialist for months was done with the intent and for the purpose of punishing the plaintiff in violation of his rights under the Eighth and fourteenth Amendment of the united States Constitution.
- 84) AS direct and proximate result of the Malicious, intentional, deliberate and/or reckless action of these Defendants Col. Evans, Dr. Badduck, Boguslaw, well-path inc. the plaintiff suffered injuries which are described above.

85) The above described actions of the Defendants Col. Evans, Dr. Baddick, Boguslaw, well-path inc in his/her individual and official capacity was so malicious, intentional and reckless and displayed such a reckless indifference to the plaintiff rights and well-being, that the imposition of punitive damages is warranted.

Wherefore pursuant to 42 U.S.C. § 1983, and 1988, plaintiff demands compensatory and punitive damages against Defendants Col. Evans, Dr. Baddick, Boguslaw, well-path inc in his/her individual and official capacity in an amount in excess of three Hundred Thousand (\$ 300,000.00) Dollars plus interest, cost, attorney fee and other appropriate relief.

Cause of Action 4

Intentional Infliction of Emotional Distress Evans, Dr. Baddick, Boguslaw, well-path inc

86) paragraphs 1 through 91 are hereby incorporated by reference as if more fully set forth below.

87) plaintiff believes and therefore avers that the Defendants Officer Evans, Dr. Baddick, PA. Boguslaw, well-path inc through their actions as more fully set forth in the preceding paragraphs of this complaint did inflict serious emotional distress upon plaintiff in an intentional and reckless manner.

- 88) The above - described Malicious, Intentional and/or reckless acts and omission of the Defendants Evans, Baddick, Boguslaw, well-path inc was outrageous, atrocious, and completely intolerable in a civilized society and went beyond all possible bounds of decency.
- 89) The above - mention malicious, intentional and/or reckless acts and/or reckless acts and omission of defendant nurse pr. Boguslaw, Sr. Baddick, Evans, well-path inc cause the plaintiff emotional distress, anxiety and fear.
- 90) As A direct and proximate result of the malicious, intentional and/or reckless actions of the Defendants the plaintiff Mr. Brown suffered injuries which are described above.
- 91) The above Described Actions of the Defendants were so malicious and intentional and displayed such Reckless Indifference to the plaintiff's rights and well-being that the imposition of punitive Damages is warranted.

Wherefore, plaintiff Demands Compensatory and punitive Damages against these Defendants Evans, Baddick, Boguslaw, well-pathing for the Common Law tort of Intentional Infliction of emotional distress in an amount in excess of three hundred thousand (\$300,000.00) Dollars plus cost interest, attorney fee and Delay Damages

Date: November 7, 2023

I Keith S. Brown state True and Correct under Penalty of perjury pursuant to 28 U.S.C

Respectfully Submitted
By: Keith S. Brown MS5040
SCI-COAL TWP
1 Kelley Drive
COAL TOWNSHIP PA 17866

IN The United States District Court
For the Middle District of Pennsylvania

Keith S. Brown

Plaintiff

VS

Civil No. 1:23-CV-1123

Col. Evans et al.,
(Defendants)

jury trial Demanded

Certificate of Service

I hereby Keith Brown certify a true and correct
Copy of Amended Complaint 20 pages in the above case,
U.S. Mail to the below indicated November 7, 2023

Most Honorable Judge

Jennifer P. Wilson

United States District Court
Middle District of Pennsylvania

U.S. Courthouse
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MAIL**

Most Honorable
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